

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA

4 versus

5 RAFAEL SALGUERO,

6 Defendant.

15 CR 252 (PKC)

U.S. Courthouse  
225 Cadman Plaza East  
Brooklyn, NY 11201  
December 6th, 2018

12:00 Noon

7  
8 TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING  
9 BEFORE THE HONORABLE PAMELA CHEN  
10 UNITED STATES DISTRICT JUDGE

11 APPEARANCES

12 For the Government: RICHARD DONOGHUE  
13 UNITED STATES ATTORNEY  
14 EASTERN DISTRICT OF NEW YORK  
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Brooklyn, New York 11201  
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Assistant United States Attorneys

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18 BY: LOUIS FREEMAN, ESQ.

19 Also Present: Mario Michelena  
20 Certified Spanish Interpreter

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25 Proceedings recorded by mechanical stenography. Transcript  
produced by computer-aided transcription.

1 THE CLERK: Criminal Cause for Sentencing, Docket 15  
2 CR 252, United States versus Rafael Salguero.

3 Will the parties please state their appearances for  
4 the record?

5 MR. NITZE: Sam Nitze and Keith Edelman for the  
6 United States. Good afternoon, Your Honor.

7 MR. EDELMAN: Good afternoon.

8 THE COURT: Good afternoon.

9 MR. FREEMAN: Good afternoon, Your Honor. Louis  
10 Freeman for Mr. Salguero. He's seated to my right.

11 THE COURT: Good afternoon to both of you.

12 And we'll also have our previously-sworn interpreter  
13 state his name for the record.

14 THE INTERPRETER: Certified Spanish Interpreter,  
15 Mario Michelena.

16 THE COURT: Good afternoon, Mr. Michelena.

17 So we're here for sentencing in this matter. I'll  
18 start off by putting a number of things on the record.

19 The defendant pled guilty before me pursuant to a  
20 plea agreement with the Government on October 27th, 2016. He  
21 pled guilty to Counts 1, 42, 47 and 65, which charged him with  
22 a RICO conspiracy and a wire fraud conspiracy.

23 I have received and reviewed in preparation for  
24 sentencing the Pre-sentence Report, dated November 16th, 2018,  
25 and I've also received a sentencing recommendation from the

1 Probation Department of the same date, which recommends a  
2 sentence of 18 months, to be followed by two years of  
3 supervised release.

4 In addition, I've received and reviewed the defense  
5 sentencing submission, dated December 3, 2018, and the  
6 Government's sentencing submission of the same date.

7 Is there anything else I should have from the  
8 Government?

9 MR. NITZE: Nothing further. I would just note for  
10 a clarification for the record, Count 47 was a money  
11 laundering conspiracy, not a wire fraud conspiracy, but in  
12 terms of the materials, I think you have it all.

13 THE COURT: Thank you very much.

14 So the defendant pled guilty to RICO conspiracy,  
15 wire fraud and money laundering conspiracy, just to clarify.

16 All right. Just so everyone knows, the Government  
17 did hand up to my deputy a Preliminary Order of Forfeiture,  
18 which I will sign later.

19 I assume, Mr. Freeman, you saw this before?

20 MR. FREEMAN: I have seen it before and I have a  
21 copy.

22 THE COURT: Okay. All right. That's all I have  
23 other than what I stated earlier.

24 Mr. Freeman, should I have anything else from you?

25 MR. FREEMAN: No.

1           THE COURT: Okay. Let's -- first of all, is anyone  
2 seeking an evidentiary hearing on any issue relating to  
3 sentencing?

4           MR. NITZE: No, Your Honor.

5           MR. FREEMAN: No.

6           THE COURT: Let's turn now to the Guidelines  
7 calculation. As the parties are aware, the Probation  
8 Department has calculated a total offense level of 25, which  
9 corresponds to an Advisory Guideline range of 57 to 71 months,  
10 and I believe that both parties are in agreement with that  
11 Guidelines calculation.

12           Is that right, Mr. Nitze?

13           MR. NITZE: Yes.

14           THE COURT: And Mr. Freeman?

15           MR. FREEMAN: Yes.

16           THE COURT: All right. So I will adopt the  
17 Probation Department's Guidelines calculation, and we'll  
18 operate based on an Advisory Guideline range of 57 to 71  
19 months.

20           Is there any objection to any other part of the  
21 Pre-sentence Report from the Government?

22           MR. NITZE: No, Your Honor.

23           THE COURT: From you, Mr. Freeman?

24           MR. FREEMAN: No. We may -- passing reference in  
25 our submission to the bail paragraph on the first page of the

1 Pre-sentence Report; however, when bail was set, that was the  
2 correct amount. So it's really not an objection.

3 THE COURT: Okay. But it has been modified since  
4 then, is that right?

5 MR. FREEMAN: Yes.

6 THE COURT: Okay. So we'll leave it as is because  
7 it does state accurately what the original bail arrangement  
8 was, and obviously, the docket will reflect any modifications  
9 since then. I don't think it relates to sentencing, in any  
10 event.

11 Would that be fair to say?

12 MR. FREEMAN: Fair to say.

13 THE COURT: All right. So let's turn now to the  
14 sentencing factors. I've reviewed the submissions from both  
15 parties.

16 And Mr. Freeman, would you like to be heard further?

17 MR. FREEMAN: Yes, Your Honor.

18 If there was a book about Mr. Salguero, and the last  
19 three years of his life, we would call it, "From Humorous To  
20 Humility in Sixty Seconds Flat." This is a good man. I've  
21 gone gotten to know him well after these three years. He's  
22 been in my office between fifty and a hundred times. He's a  
23 good man who did bad things.

24 But then he did the right thing. To make amends for  
25 he did that was wrong, he accepted responsibility [REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Mr. Salguero is a lawyer. He was not actively practicing because of his association with football. It was football that was his life, and his football was his life's blood. He has a family with four children, two of whom are also lawyers.

As I indicated in my submission, Mr. Salguero is 73. He's not in the best of health. He has been under a doctor's care because of Type 2 diabetes and high blood pressure.

1 There have been flare-ups, but his health is under control --  
2 his health problems, I should say, are under control. The  
3 likelihood of his reoffending is virtually nonexistent.

4 I'm now going to turn to a section of my remarks  
5 called, "How The Mighty Have Fallen." Mr. Salguero's shame is  
6 palpable, not just because he ruined his and his family's  
7 reputation, not just because his name and face is all over  
8 newspapers in Guatemala and other places, but because of what  
9 he did to ruin the good name of football in Guatemala and  
10 around the world.

11 Guatemala was -- excuse me. Sorry. Football was  
12 good to him. He traveled around the world as an emissary for  
13 football. He started off as a player. He's been -- spent his  
14 whole adult life being part of football, and as I said, it was  
15 good to him. He wasn't so good to it in the end.

16 He met dignitaries. He felt great stature, and all  
17 this came tumbling down and now all he feels is shame.

18 We're not asking you to feel sorry for him. We're  
19 not suggesting he is the victim, but we are suggesting that  
20 the Court can and should take into consideration what his life  
21 has been like since the arrest as part of the sentencing  
22 factors, and consider what the punishment has been for him  
23 these last three years.

24 Some of this punishment includes living [REDACTED]

25 [REDACTED] on strict

1 conditions of house arrest, living far from home, living far  
2 from his family, not being there for his son's marriage, not  
3 being there for his brother's death, being alone most of the  
4 time, waiting for judgment day.

5 It's been hard for him. I've seen his suffering.  
6 I've seen him cry. But he understands why it has to be this  
7 way, because he committed crimes, inexcusable crimes, and he  
8 has to pay for what he did, but [REDACTED] he  
9 demonstrated his sincerity about his remorse. He used these  
10 three years waiting for judgment day to come to grips with  
11 reality -- the reality that he has no one to blame but  
12 himself.

13 For those reasons and others referenced in the  
14 Government's letter and my letter, we ask that the Court  
15 impose a sentence of time served, and I think the Government  
16 will discuss why supervised release is appropriate.

17 THE COURT: Thank you very much, Mr. Freeman.

18 Mr. Nitze, would you like to be heard further beyond  
19 your written submission?

20 MR. NITZE: Just briefly, Your Honor, if I may  
21 remain seated --

22 THE COURT: Yes.

23 MR. NITZE: -- to use the microphone? Thank you.

24 First off, as readily acknowledged by Mr. Freeman  
25 and also by his client, the crimes of conviction are serious.



1 Your Honor has considered similar offenses already in the  
2 context of this case, and we said a fair amount about that  
3 already.

4 Mr. Salguero reached the very highest levels of the  
5 administration of the sport. He was one of three  
6 representatives from our region from CONCACAF on the FIFA  
7 Executive Committee. He obviously reached the top of the  
8 Guatemalan Federation and was a person who was in a position  
9 to influence and direct the sport, and he abused that position  
10 to enrich himself.

11 And that was a part of a far broader -- he became a  
12 part of a broader and deeper culture and pattern of corruption  
13 that gutted the integrity of the sport over a period of time,  
14 and those are serious offenses and they are made more so, and  
15 we are sitting here today because they also took aim at the  
16 U. S. financial system. They relied on the banking  
17 institutions here in part, generated profits here, and we have  
18 gone through that, as well, the various connections to --  
19 domestic connections of conduct.

20 The defendant, as Mr. Freeman said, he -- while he  
21 committed those offenses, he, at the end, accepted  
22 responsibility quickly for committing those offenses [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

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[REDACTED]

And so for those reasons and the others referenced in our submission, we ask that the Court impose a sentence below the applicable Guidelines range.

THE COURT: Thank you very much, Mr. Nitze.  
I'll hear from you, Mr. Salguero, if you'd like to be heard at this time.

THE DEFENDANT: (Speaking in Spanish.)

THE COURT: Let me stop you, so the translator can translate.

THE DEFENDANT: (Through the interpreter.) Thank you very much, Your Honor.

First of all, I want to thank you for this opportunity to speak and I want to say that I feel I deeply regret what I did. I deeply regret several mistakes that I've made, but I also can see that they were part of a tsunami that carried with it all of our worldwide soccer, and what's coming from many years back, from the late Eighties.

And although I was already involved in soccer at that time, I didn't have the kind of position I ended up having. Everything has been already detailed.

1 I just want to thank you, and I want to apologize  
2 again to everybody and to the sport of soccer in general, and  
3 also particularly to my family, who ended up suffering with me  
4 for these three years because of the separation, and on  
5 myself.

6 And I don't think I have anything else to add  
7 because everything had been detailed already, including in  
8 writing, and it's known by all the parties here and both my  
9 attorney and the prosecutor has explained everything.

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 THE COURT: All right. Thank you very much,  
14 Mr. Salguero.

15 I have considered the relevant factors set forth by  
16 Congress in Title 18, United States Code, Subsection 3553(a),  
17 which includes the Advisory Guideline range in this case, to  
18 ensure that I impose a sentence that is sufficient but not  
19 greater than necessary to achieve the purposes of sentencing.

20 Those purposes include the following: The need for  
21 the sentence to reflect the seriousness of the crime, to  
22 promote respect for the law, to provide just punishment for  
23 the offense, to deter criminal conduct by Mr. Salguero, as  
24 well as others who would choose to engage in the same type of  
25 conduct, and to protect the public from future crime by

1 Mr. Salguero. I've also considered the nature and  
2 circumstances of Mr. Salguero's offenses, as well as his  
3 personal history and characteristics. So let me discuss those  
4 factors in more detail.

5 First of all, there's no doubt that this is a  
6 serious crime or a serious set of crimes committed by  
7 Mr. Salguero. It's obvious -- and I won't belabor that  
8 point -- this scheme that Mr. Salguero and many, many other  
9 soccer officials participated in, as well as media executives,  
10 rotted the very core of international professional soccer, and  
11 made it -- rendered it a very sorry situation and did and will  
12 for a long time. It certainly has given a black eye to this  
13 sport around the world.

14 In addition, there was genuine deprivation of funds  
15 to various soccer organizations as a result of the conduct  
16 engaged in by Mr. Salguero, and others. And these are  
17 organizations that are dedicated or were supposed to be  
18 dedicated to providing important social and cultural support  
19 in countries where that's greatly needed. So by depriving  
20 these organizations of his honest services, he did a great  
21 disservice not only to the soccer community, but to his  
22 country and community at large.

23 I'm hoping that Mr. Salguero's statement about being  
24 caught up in this tsunami doesn't reflect a failure to  
25 understand that regardless of the fact that he was in some way

1 awash in a culture that was completely corrupt, that it still  
2 was -- that this was a collective moral failure that he  
3 actively participated in and could have resisted very easily.  
4 He could have simply said no.

5           Tsunami suggests a lack of control, a lack of will,  
6 a lack of self-determination, and I don't see the situation at  
7 all that way. I assume -- though I have yet to meet them --  
8 there were many soccer officials who actually did say no and  
9 they are not defendants in this case as a result of it.

10           So he could have easily done his job, his  
11 responsibility, his duty honestly, and according to the  
12 ethical code that he swore to when he joined FENAFUTG,  
13 F-E-N-A-F-U-T-G, CONCACAF and FIFA, but he chose not to, and  
14 that was a moral decision that he made and now he is paying  
15 for.

16           The defendant's involvement in this crime was also  
17 not insignificant. As set forth in the Pre-Sentence report,  
18 he conspired to get \$1.655 million in bribes and he sought  
19 to -- albeit unsuccessfully in large measure -- get this  
20 money. That is a magnitude of bribery and greed that  
21 obviously is significant, and it's also reflected in the  
22 Guidelines themselves. So this was not an insignificant set  
23 of crimes committed by Mr. Salguero.

24           Now, of course, on the other side of this balance  
25 sheet is everything that has been discussed at some length, so

1 I'll touch upon it more lightly, by defense counsel and the  
2 Government: [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 And also, he has demonstrated genuine rehabilitation  
19 and remorse, and I believe a genuine desire not to reoffend or  
20 recidivate; therefore, I do find, as the defense has argued,  
21 there isn't a great risk of recidivism here, in large part  
22 because of Mr. Salguero's own change in his behavior, and also  
23 his age, and also because he will have little opportunity to  
24 reoffend because one of the conditions of his sentence will be  
25 to not serve in any official capacity in any soccer

1 organization through the remainder of his life -- not that  
2 there should be such an opportunity offered to him, but  
3 nonetheless, he will be precluded from doing so. I don't have  
4 a great concern there about recidivism or the need to protect  
5 the public from future crimes by Mr. Salguero.

6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]

18 With respect to punishment, I believe that purpose  
19 has been partially served by the time that Mr. Salguero has  
20 spent in what is effectively home confinement for the last  
21 three years in a foreign country under very restrictive  
22 circumstance, [REDACTED]

23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]



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[REDACTED]

Lastly, I have considered the need to avoid unwarranted disparities between similarly-situated defendants, and there is at least one here who I've previously sentenced to a term of time served. One distinguishing factor is that defendant also happened to have been in jail in I think Switzerland for some period of time. So he actually did some actual jail time, but nonetheless, I do find these two defendants comparable in many ways, [REDACTED]

[REDACTED]

1           So putting all that together, I am going to impose a  
2 sentence of time served here. [REDACTED]

3 [REDACTED]  
4 [REDACTED]  
5           That time served sentence will be followed by two  
6 years of supervised release. I recognize -- and so does the  
7 Probation Department -- that Mr. Salguero would likely be  
8 returning to his country. Certainly, he is subject to, I  
9 assume, deportation, but he can self-deport, and hopefully  
10 then avoid Immigration custody.

11           But the Probation Department has indicated to me and  
12 stated in their recommendation that they will still -- or they  
13 still intend to supervise Mr. Salguero's release, [REDACTED]

14 [REDACTED]  
15 [REDACTED] So therefore, this is not a meaningless  
16 sentence or part of the sentence. So that would be for two  
17 years, and it will have the following special conditions.

18 [REDACTED]  
19 [REDACTED] He will also  
20 cooperate and abide with all instructions from Immigration  
21 authorities. So to the extent that he seeks to self-deport  
22 and Immigration says no, he will have to follow whatever rules  
23 they impose upon him, and that also applies if they let him  
24 self-deport. He will have to follow their instructions.

25           If deported, or excluded, the defendant will not

1 illegally enter the United States. [REDACTED]

2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED] Mr. Salguero should not take it  
5 upon himself to enter the U. S. illegally because that would  
6 violate his supervised release.

7 Lastly -- and this is perhaps real punishment to  
8 him -- he will not serve in any official role or capacity or  
9 hold any title within FIFA, CONCACAF, FENAFUTG or any other  
10 professional soccer organization.

11 And then last -- those are all the conditions of his  
12 supervised release.

13 With respect to a fine, I'm not going to impose one  
14 because based on Mr. Salguero's financial circumstances and  
15 the priority of restitution and forfeiture, I don't think he  
16 has the ability to pay an additional fine. I am going to  
17 defer deciding on restitution until we can have further  
18 briefing and any hearings.

19 I was hoping to combine the schedule on restitution  
20 with that of Co-defendant Li, but I'm wondering if that makes  
21 sense, and I'll hear from the Government and defense in a  
22 moment on that, and I'll tell you what the dates are in a  
23 moment.

24 I do have to impose a total special assessment of  
25 \$400, which is \$100 on each count, and that's due immediately.

1           And then lastly, forfeiture has been agreed to in  
2     the amount of \$168,000 plus \$120,000, all of which represents  
3     proceeds or ill-gotten gain by Mr. Salguero from the various  
4     bribery schemes.

5           As I mentioned earlier, I have been provided with a  
6     Preliminary Order of Forfeiture, which reflects at least those  
7     amounts, and then also indicates that any other proceeds or  
8     assets that are tied to the crimes of conviction will also be  
9     subject to forfeiture.

10          MR. NITZE: And if I may, Your Honor, just for the  
11     record, the defendant has satisfied his forfeiture obligation.  
12     The \$160,000 was paid in the account. The Government is in  
13     the process of working on that account, but from our  
14     perspective, he has satisfied that forfeiture obligation.

15          THE COURT: All right.

16          MR. FREEMAN: And so the record is clear, although  
17     it's been satisfied and it's no longer at issue, it was up to  
18     120, not 120.

19          THE COURT: That is correct, and that's reflected in  
20     the order I'm about to sign.

21          Even though the amounts have been satisfied, I will  
22     nonetheless issue the order, so that the record is clear and  
23     that if there is any attendant paperwork, the order will allow  
24     that to take place in terms of turning the money over to the  
25     Government. That has to happen.

1 All right. Now, let's turn to restitution for a  
2 moment and talk about a briefing schedule for that.

3 Mr. Li's schedule right now is as follows -- you  
4 know, some of it's past due, so that may be a little tricky.  
5 Yeah. We're probably going to have to set another schedule.  
6 Let's see if we can get -- if we're going to have a hearing,  
7 let's see if we can combine those.

8 Remind me, Mr. Nitze, are the victims -- I mean,  
9 FIFA certainly would be the same, but are the victims the same  
10 in terms of CONCACAF versus -- I can't remember Mr. Li's  
11 regional affiliation.

12 MR. NITZE: Yes. They are -- at the region level,  
13 yes, they're the same.

14 THE COURT: Okay. So let's work backwards. The  
15 restitution hearing itself has been set for February 6th. I  
16 think within that, we can probably build in a briefing  
17 schedule that would work in this case as well, and therefore,  
18 we'd only have to have one hearing, to the extent there may be  
19 any witnesses, any experts or anybody else called.

20 So let's start with the Government's -- or sorry,  
21 the defense sentencing -- I'm sorry -- restitution submission.

22 How much time would you like, Mr. Freeman?

23 MR. FREEMAN: (No response.)

24 THE COURT: You know, you'll have the benefit -- let  
25 me just point this out -- you ought to check Mr. Li's docket,

1 because the --

2 MR. FREEMAN: I already have.

3 THE COURT: Yeah. The victims submitted or are due  
4 to submit something in December. That will probably be the  
5 most illuminating. So why don't we set up a filing date for  
6 you after that?

7 MR. NITZE: Would Your Honor like me to have the  
8 victims submit on the same date for both Mr. Salguero and  
9 Mr. Li?

10 THE COURT: Yes. I think that makes perfect sense.  
11 I think that's enough time, although I'll hear from them on  
12 that. The argument shouldn't really be any different. It's  
13 joint and several liability. It's more a question of having  
14 to prove actual lost revenue or attorneys' fees or  
15 investigation fees that they're going to be claiming.

16 So we'll set that date. The victims should submit  
17 any filings relating to restitution for Mr. Li and  
18 Mr. Salguero by December 21st, 2018. And my hope -- and I'll  
19 include this in the instruction -- is that they consult with  
20 the Government, so that they can get the Government's approval  
21 or not on their requests.

22 Then Government has a filing date of January 11th on  
23 its position. I think what I'll do is make that your  
24 deadline, Mr. Freeman, and then --

25 MR. FREEMAN: January 11th?

1 THE COURT: Yes, January 11th, 2019, which gives you  
2 about three weeks.

3 MR. FREEMAN: I could live with that.

4 THE COURT: Okay. You let me know if that doesn't  
5 work --

6 MR. FREEMAN: Okay.

7 THE COURT: -- after you see their supplemental  
8 submissions. You have a head start, I think, based on  
9 everything that's gone before in the other cases, including  
10 Mr. Marin and Mr. Napout, as well as the decision I rendered  
11 there.

12 Then the Government can file a response I think  
13 by -- how about January -- why don't we make it 25th?

14 MR. FREEMAN: I'm sorry. I didn't hear that.

15 THE COURT: That's January 25 for the Government to  
16 file its submission, and then any reply by you, Mr. Freeman,  
17 or the putative victims will be a week later. So that will  
18 get us very close to the hearing date.

19 MR. NITZE: If I might, just for a moment?

20 THE COURT: Yes?

21 MR. NITZE: We're looking at the schedule set for  
22 Defendant Li, and unless I have it wrong, I think the  
23 December 21st date -- sorry. The January 11th date on Li's  
24 schedule is the date by which the Government responds to  
25 victim submissions and then Mr. Li responds to that.

1 THE COURT: Correct.

2 MR. NITZE: And so if that is the order of march for  
3 Li, maybe it makes sense to do the same thing, so that the  
4 Government is responding to victims' submissions both for Li  
5 and for Salguero on January 11th, and then both defendants  
6 follow -- or am I misunderstanding?

7 THE COURT: No. You're absolutely right -- and the  
8 reason I was hesitating is because I wanted to give Mr.  
9 Freeman a chance even before the Government -- but you're  
10 right that we have it that you're responding to the victims'  
11 request before the defense.

12 I mean, I guess that gives you the benefit, Mr.  
13 Freeman, of knowing what the Government's position is. Again,  
14 since I was hoping there was a cooperative back scenes  
15 situation.

16 MR. NITZE: I will be in touch.

17 THE COURT: Yeah.

18 MR. NITZE: Whether or not we agree, it's a  
19 different matter, but I'll certainly be in touch with them.

20 THE COURT: So let's keep it the same. The  
21 Government will respond to the victims' request for  
22 restitution, and state its position on January 11, 2019. So  
23 it's consonant with the one in Mr. Li's case.

24 And then Mr. Freeman, you'll have until January 18th  
25 to basically respond to --



1 MR. FREEMAN: January 25th or you said the 18th?

2 THE COURT: Eighteenth, because at that point,  
3 you'll have the benefit of everybody's submissions and that's,  
4 you know, roughly four weeks from the victim submissions and a  
5 week from the Government.

6 And then, the 25th will be the reply date for the  
7 victims, and then we'll have the hearing on February 6th.

8 MR. NITZE: If necessary, I take it?

9 THE COURT: Yes.

10 MR. NITZE: Okay.

11 THE COURT: I mean, I'm anticipating based on how  
12 things have gone before, if history is, in fact, a prologue,  
13 we should see something, I guess, someone.

14 All right. I think that covers everything, except  
15 on the notice on the right to appeal. (Confers with clerk.)

16 The sentence I impose of time served is the same for  
17 every count of conviction -- all four -- and it's concurrent,  
18 as is the two years of supervised release. It's imposed on  
19 each count, but to run concurrently, and the conditions are  
20 the same for all four, as well.

21 All right. So now, Mr. Salguero, let me advise you  
22 about your right to appeal. You can appeal your conviction if  
23 you believe that your guilty plea was somehow unlawful or  
24 involuntary or if there was some other fundamental defect in  
25 the proceedings that you did not waive or give up by pleading

1 guilty.

2 Under some circumstances, you can also appeal the  
3 sentence that I just imposed, and you have not waived your  
4 right to appeal your sentence. So you can certainly do that  
5 if you think there is something defective about the sentence  
6 itself.

7 Any Notice of Appeal must be filed within 14 days of  
8 the filing of the judgment, which will be the paper that will  
9 be docketed that reflects this entire sentence, or within 14  
10 days of the filing of a Notice of Appeal by the Government, if  
11 the Government chooses to appeal the sentence that I just  
12 imposed.

13 If you wish to file an appeal and you go to the  
14 clerk's office, they will prepare a Notice of Appeal on your  
15 behalf. And if you cannot afford to pay for the appeal or for  
16 appellate counsel, you have the right to apply for the filing  
17 fee to be waived or to have Court-appointed counsel.

18 Do you understand your right to appeal?

19 THE DEFENDANT: Yes. Thank you.

20 THE COURT: Are there open counts to be dismissed?

21 MR. NITZE: There are, Your Honor. The Government  
22 moves to dismiss all the open counts, which I believe are  
23 Counts 43, 44, 48, 66, and 67.

24 THE COURT: All open counts, including the ones just  
25 mentioned against Mr. Salguero, will be dismissed.

1 Are there any other matters that we need to resolve  
2 other than restitution?

3 MR. NITZE: Just an application, Your Honor.

4

5

6 we'd ask leave to have a week to file for  
7 post-redactions, as we did with Defendant Li.

8 THE COURT: Yes. I will grant that and I will also  
9 note that the proceeding has been conducted openly. There  
10 have been people in the gallery throughout; nonetheless, the  
11 minutes themselves will be redacted, as appropriate.

12 Okay. Anything from you, Mr. Freeman?

13 MR. FREEMAN: No, Your Honor.

14 THE COURT: Okay. And let me note in that regard, I  
15 mean, the distinction I make and I think the Government has  
16 already argued this before, that the existence of a piece of  
17 paper versus the attendance of some handful of individuals is  
18 quite different in my mind in terms of safety and security  
19 risk that they present. And therefore, I think it's  
20 appropriate to only docket the redacted minutes.

21 MR. NITZE: And my understanding is Probation is  
22 willing to see Mr. Salguero today, if you want to get the --  
23 whatever paperwork needs to be dealt with. That would be a  
24 step worth addressing now.

25 THE COURT: All right. So I'll let Mr. Freeman --

1 MR. NITZE: You can talk about that --

2 THE COURT: -- and the defendant take care of that.

3 Start the processing for Mr. Salguero's supervised release --

4 MR. FREEMAN: Yes, of course.

5 THE COURT: -- and maybe they can help him in terms  
6 of talking about deportation.

7 Now, here's a question for you, Mr. Freeman, since  
8 we have this somewhat elongated schedule for restitution, are  
9 you going to waive your client's appearance for that, should  
10 he choose to go --

11 MR. FREEMAN: Yes.

12 THE COURT: -- back to Guatemala or somewhere else?

13 MR. FREEMAN: Correct.

14 THE COURT: All right. So Mr. Salguero, understand  
15 that you would ordinarily have the right to be present for the  
16 restitution proceedings, here in court, but your lawyer's  
17 telling me that you are willing to give up that right, is that  
18 correct?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay. All right.

21 THE DEFENDANT: He is the one I chose to represent  
22 me.

23 THE COURT: Thank you all very much.

24 MR. NITZE: Thank you, Judge.

25 THE COURT: Thank you.

THE DEFENDANT: Thank you.

(Proceedings concluded.)